

FD 30400

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INTERSTATE COMMERCE COMMISSION

DECISION

SERVICE DATE

MAY 22 1985

FINANCE DOCKET NO. 30400*

SANTA FE SOUTHERN PACIFIC CORPORATION - CONTROL -
SOUTHERN PACIFIC TRANSPORTATION COMPANY

Decided: May 17, 1985

The third hearing phase in these proceedings was completed on May 6, 1985. Certain revisions as shown below have been made in the procedural schedule previously set forth.

On May 9, 1985, protestants and responsive applicants, Union Pacific Railroad and Missouri Pacific Railroad Company (collectively "UP"/MP) filed a motion for a two week extension, to June 12, 1985, of the present May 29, 1985 deadline for the filing of rebuttal evidence in support of trackage rights applications. A similar motion was filed by the Kansas City Southern Railway Company (KCS) on May 13, 1985. As stated by UP/MP the extension is sought only with respect to evidence concerning competition issues, and not with respect to rebuttal evidence concerning any other matters, particularly operating issues.

The requested extension is sought by UP/MP because it states that serious delays have been encountered in the production by primary applicants ("SFSP") of workpapers and data underlying the February 21, 1985 testimony of SFSP competition witnesses Forrest Baker and David Anderson (SFSP)-44).

In view of the problems cited by UP/MP and KCS, their motions, and agreement of the primary and responsive applicants, an extension is hereby granted to UP/MP to June 7, 1985, for the filing of their rebuttal evidence dealing with competition issues. An extension to June 7, 1985 is also granted to KCS to file their rebuttal evidence dealing with competition issues in the testimony of SFSP witnesses Baker, Anderson and Bosanko-Reyff. The rebuttal evidence in the verified statements to be filed on June 7, 1985 is to be limited to issues relating to primary applicants evidence in opposition to the responsive applications. The present filing date of May 29, 1985, remains in effect for the filing of all other rebuttal evidence of responsive applicants. Hearings will be held June 17-26, for the cross-examination of those responsive applicants witnesses filing rebuttal verified statements on May 29, 1985 and June 7, 1985.

The hearing for the cross-examination of witnesses for responsive applicants, filing rebuttal verified statements on May 29, and June 7, 1985, will begin at 9:30 A.M. on June 17, 1985, in Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, DC 20423.

The primary applicants will now file their rebuttal verified statements concerning the merger proceeding on July 10, 1985. Hearing will be held for the cross-examination of applicants rebuttal witnesses on July 30 - August 9, 1985.

* Embraces F.D. Nos. 30400 (Sub-No. 1-20 and MC-F-15628).

Request for cross-examination of witnesses filing rebuttal evidence on May 29, 1985, supporting the responsive applications, should be made by notifying the parties submitting such testimony as well as the Commission, and the coordinators named below on or before June 7, 1985. Requests for cross-examination of UP/MP witnesses and KCS witnesses filing rebuttal verified statements on June 7, 1985, should be made by notifying the parties submitting such testimony as well as the Commission, and the coordinators named below on or before June 12, 1985. The requests should generally indicate the purpose of such cross-examination. It is the Judge's desire that where possible, notification of request for cross-examination should be made as soon as such intent to request cross-examination is reached by such parties.

The parties through the coordinators named below have agreed to confer concerning the proposed order of presentation of witnesses as well as concerning other matters for the orderly scheduling of the hearings. The Commission and the parties should be notified by June 13, of the proposed order of presentation of witnesses at the hearing commencing June 17, 1985.

Requests for cross-examination of primary applicants rebuttal witnesses submitting verified statements should be made by notifying the parties submitting such testimony, as well as the Commission, and the coordinators named below, on or before July 22, 1985. The requests should generally indicate the purpose of such cross-examination. The Commission and the parties should be notified by the coordinators named below by July 25, 1985 of the proposed order of presentation of witnesses at the July 30, 1985 hearing.

Mr. G. Paul Moates, 1722 Eye Street, NW, Washington, DC 20006, Telephone No. 202-429-4000, Mr. Robert N. Kharasch, Canal Square, 1054 Thirty-First Street, N.W., Washington, DC 20007, Telephone No. 202-342-5200 and Mr. James Ratner, Room 6313 Department of Justice, 414 11th Street, N.W., Washington, DC 20044, Telephone No. 202-724-6526 will continue to act as coordinators for the hearings. All parties should cooperate with the coordinators by informing them of requests for cross-examination of witnesses and also cooperate with them in coordinating the orderly presentation of witnesses at the hearing beginning June 17, 1985, and that beginning July 30, 1985.

James E. Hopkins
JAMES E. HOPKINS
Administrative Law Judge

JAMES H. BAYNE
Secretary

(SEAL)